

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Boyle et al.

Serial No.: 09/718,725

Group Art Unit No.: 1647

Filed: November 22, 2000

Examiner: DeBerry, Regina M.

For: Osteoprotegerin

Docket No.: A-378CIPC3

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 CFR § 1.705(d)

Mail Stop Patent Extension]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants herewith request reconsideration of Patent Term Adjustment (PTA) under 37 CFR §1.705(d) on or before the due date of February 15, 2010, which is two months after the issue date of U.S. Patent No. 7,632,922, which was granted on December 15, 2009. This paper is timely filed on February 16, 2010 as the due date falls on a Federal holiday. This request is for a revision of the PTA of 1275 days that was published on the face of the patent to 1156 days. The request is accompanied by the requisite fee under 37 CFR §1.18(e).

REMARKS

The above-captioned patent application issued as U.S. Patent No. 7,632,922 on December 15, 2009, after Applicants paid the issue fee on November 3, 2009. The Notice of Allowance, mailed August 3, 2009, stated that the PTA up until the date of the Notice of Allowance was 288 days, which included 1005 days of USPTO delay under 37 CFR § 1.702(a), minus 717 days of Applicants' delay under 37 CFR § 1.704. Applicants did not apply for reconsideration of PTA determination under 37 CFR § 1.705(b). The Issue

CERTIFICATE OF EFS-WEB TRANSMISSION

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted electronically through EFS-WEB to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on the date appearing below.

February 16, 2010

Date

Signature

Notification, mailed November 24, 2009, stated that the PTA was 1275 days, which had been revised from the earlier term on the Notice of Allowance by including 987 days of PTA pursuant to 37 CFR § 1.702(b). The PTA of 1275 days is printed on the face of U.S. Patent No. 7,632,922. Applicants assert that the correct PTA should be revised from 1275 days, as it appears on the patent, to **1156 days** based on the following facts:

1. The information posted on the Patent Application Information Retrieval (PAIR) System shows that a Non-Final Rejection was mailed July 17, 2006 and Applicants' response to the rejection was mailed December 19, 2007. The USPTO reduced Applicants' PTA by a period of **428 days**, which was the number of days from the three (3) month due date for a response to a non-final office action (October 17, 2006) to the date that a response to the non-final action was mailed to the USPTO (December 19, 2007) in accordance with 37 CFR §1.704(b). See, **EXHIBIT A**, *Patent Term Adjustments as set forth in PAIR*, appended hereto.
2. The above-referenced application became abandoned on January 17, 2007, the date which is six (6) months after the mailing of the non-final office action. A Notice of Abandonment for failure to respond to the office action was mailed on May 15, 2007. A Petition to Revive under 37 CFR § 1.137(b) was entered by the USPTO on December 19, 2007 and the date on which the petition was granted was April 16, 2008. Pursuant to 37 CFR §1.704(c)(3)(i), the delay due to Applicants from the date of abandonment to the date of grant of a petition to revive the application was **455 days**.
3. The period of delay due to Applicants would not have ended on December 19, 2007 as Applicants' Petition to Revive under 37 CFR § 1.137(b) was not granted until April 16, 2008. Accordingly, the period of delay due to Applicants should have included **119 days** until the date Applicants' petition to revive was granted.

The above-captioned patent is not subject to a Terminal Disclaimer.

Based on the foregoing, Applicants respectfully request that the PTA in the above-captioned patent be revised to 1156 days (1275 days minus 119 days), and that a Certificate of Correction be issued accordingly.

The Commissioner is hereby authorized to charge the requisite fee of \$200.00, under 37 CFR §§1.705(d) and 1.18(e), to Deposit Account No. 01-0519 in the name of Amgen Inc. The Commissioner is hereby authorized to charge any fee which may be required, or credit any overpayment to Deposit Account No. 01-0519 in the name of Amgen Inc.

Respectfully submitted,



Robert B. Winter
Attorney/Agent for Applicant(s)
Registration No.: 34,458
Phone: (805) 447-2425
Date: February 16, 2010

Please send all future correspondence to:

21069

US Patent Operations/RBW
Dept. 4300, M/S 28-2-C
AMGEN INC.
One Amgen Center Drive
Thousand Oaks, California 91320-1799



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09/18,725

OSTEOPROTEGERIN

Selected New Case	Application Data	Transaction History	Image File Wrapper	Patent Term Adjustments	Continuity Data	Fees	Published Documents	Attorney/Agent Address & Address
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Patent Term Adjustment

Filing or 371(c) Date:	11-22-2000	USPTO Delay (PTO) Delay (days):	1992
Issue Date of Patent:	12-15-2009	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	717
Post-Issue Petitions (days):	+0	Total Patent Term Adjustment (days):	1275
USPTO Adjustment (days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
11-24-2009	PTA 36 Months	987	
12-15-2009	Patent Issue Date Used in PTA Calculation		
11-09-2009	Dispatch to FDC		
11-09-2009	Application Is Considered Ready for Issue		
11-03-2009	Issue Fee Payment Verified		
11-03-2009	Issue Fee Payment Received		
08-21-2009	Sequence Forwarded to Pubs on Tape		
08-03-2009	Mail Notice of Allowance		
07-31-2009	Document Verification		
07-31-2009	Notice of Allowance Data Verification Completed		
07-31-2009	Case Docketed to Examiner in GAU		
07-29-2009	Examiner's Amendment Communication		

05-06-2009	Information Disclosure Statement considered	↗	
05-06-2009	Electronic Information Disclosure Statement	↗	
05-14-2009	Date Forwarded to Examiner	↗	
05-14-2009	Date Forwarded to Examiner	↗	
05-06-2009	Request for Continued Examination (RCE)	↗	
05-14-2009	Disposal for a RCE / CPA / R129	↗	
05-06-2009	Request for Extension of Time - Granted	↗	
05-06-2009	Information Disclosure Statement (IDS) Filed	↗	
05-06-2009	Workflow - Request for RCE - Begin	↗	
03-05-2009	Correspondence Address Change	↗	
02-06-2009	Notice of Appeal Filed		92
02-06-2009	Request for Extension of Time - Granted		
08-06-2008	Mail Final Rejection (PTOL - 326)	109	
08-04-2008	Final Rejection	↗	
08-08-2006	Information Disclosure Statement considered	↗	
06-02-2008	Date Forwarded to Examiner	↗	
12-19-2007	Response after Non-Final Action	↗	
06-03-2008	Mail Notice of Rescinded Abandonment		428
06-02-2008	Notice of Rescinded Abandonment in TCs	↗	
04-16-2008	Mail-Petition to Revive Application - Granted	↗	
04-16-2008	Petition to Revive Application - Granted	↗	
12-19-2007	Petition Entered	↗	
05-15-2007	Mail Abandonment for Failure to Respond to Office Action	↗	
05-14-2007	Aband. for Failure to Respond to O. A.	↗	
08-08-2006	Information Disclosure Statement (IDS) Filed	↗	
08-08-2006	Information Disclosure Statement (IDS) Filed	↗	
08-02-2006	IFW TSS Processing by Tech Center Complete	↗	
07-17-2006	Mail Non-Final Rejection	896	
07-06-2006	Non-Final Rejection	↗	

07-08-2004	Date Forwarded to Examiner	⇧	
07-08-2004	to Close the A/R Record and Reset the Status for Expired Suspensions.	⇧	
12-11-2003	Mail Letter of Suspension	⇧	
12-10-2003	Letter of Suspension - Examiner Initiated	⇧	
10-16-2003	Date Forwarded to Examiner	⇧	
10-02-2003	Amendment/Argument after Notice of Appeal	⇧	
10-02-2003	Notice of Appeal Filed		92
10-02-2003	Request for Extension of Time - Granted	⇧	⇧
04-02-2003	Mail Final Rejection (PTOL - 326)		⇧
04-02-2003	Final Rejection		
01-17-2003	CRF Is Good Technically / Entered Into Database		
01-16-2003	Date Forwarded to Examiner		90
12-18-2002	Response after Non-Final Action	⇧	⇧
12-18-2002	Request for Extension of Time - Granted	⇧	⇧
07-11-2002	Correspondence Address Change		⇧
06-19-2002	Mail Non-Final Rejection		
06-17-2002	Non-Final Rejection		
04-30-2002	Date Forwarded to Examiner		15
04-23-2002	Response to Election / Restriction Filed	⇧	⇧
04-23-2002	Request for Extension of Time - Granted		⇧
01-08-2002	Mail Restriction Requirement		
01-08-2002	Requirement for Restriction / Election		
11-22-2000	Information Disclosure Statement (IDS) Filed		
11-22-2000	Information Disclosure Statement (IDS) Filed		
11-22-2000	Preliminary Amendment		
09-25-2001	Case Docketed to Examiner in GAU		
05-31-2001	CRF Is Good Technically / Entered into Database		
05-09-2001	Application Dispatched from OIPE		
05-09-2001	Correspondence Address Change		

05-09-2001	Correspondence Address Change
11-22-2000	CRF Disk Has Been Received by Preexam / Group / PCT
12-19-2000	IFW Scan & PACR Auto Security Review
11-22-2000	Initial Exam Team nn

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